THE HON'BLE SRI JUSTICE N.V. RAMANA

W.P. No. 5741 of 2006

Oral order:

Assailing the award dated 17.08.2005, passed by the Labour Court, Godavarikhani, in I.D. No. 52 of 2004, the petitioners-Singareni Collieries Co. Ltd., has filed the present writ petition.

The 1st respondent while working with the petitioners as Coal Filler, was issued charge sheet dated 28.04.2002, charging that he either attends duty late or absents from duty without sufficient cause. After conducting enquiry into the said charge, the petitioners dismissed the 1st respondent from service by order dated 07.08.2003. Assailing the said dismissal order, the 1st respondent raised an industrial dispute in I.D. No. 52 of 2004, and the Labour Court, by reason of the award impugned in this writ petition, set aside the order of dismissal from service and directed reinstatement of the 1st respondent into service with continuity of service, but without backwages on production of Medical Certificate, and treating the period from the date of dismissal to the date of his reinstatement into service as "not on duty".

Ms. Komalatha, the learned counsel representing the learned counsel for the petitioners submitted as against the order of dismissal, the 1st respondent had remedy of appeal, but without availing the said remedy, the 1st respondent raised industrial dispute before the Labour Court, which erroneously entertained the same. She further submitted that the Labour Court without properly appreciating the evidence and without considering the fact that the charges against the 1st respondent are proved, had set aside the order of dismissal, and

directed his reinstatement without backwages, which cannot be sustained, and prayed that the impugned award be set aside and the writ petition be allowed.

On the other hand, the learned counsel for the 1st respondent-employee supported the award, and contended that that the 1st respondent absented from duty because of his ill-health, and considering the fact that the absence of the 1st respondent was *bona fide*, and for such reasoned absence, order of dismissal was disproportionate, set aside the order of dismissal and directed his reinstatement into service without backwages, and no interference is called for therewith.

Heard the learned counsel for the petitioners-company and the learned Standing Counsel for the 1st respondent-employee.

The certiorari jurisdiction of this Court under Article 226 of the Constitution of India, to interfere with the orders/awards of the subordinate Courts/Tribunals, is well defined, and is mainly exercised for correcting gross errors of jurisdiction. In **Surya Dev Rai v. Ram Chander Rai**[1], the apex Court defined the certiorari jurisdiction of this Court under Article 226 of the Constitution of India, as under:

> Certiorari, under Article 226 of the Constitution, is issued for correcting gross errors of jurisdiction, i.e., when a subordinate Court is found to have acted (i) without jurisdiction - by assuming jurisdiction where there exists none, or
> (ii) in excess of its jurisdiction by overstepping or crossing the limits of jurisdiction, or (iii) acting in flagrant disregard of law or the rules of procedure or acting in violation of principles of natural justice where there is no procedure specified, and thereby occasioning failure of justice.

Keeping in view the scope of certiorari jurisdiction of this Court, the award of the Labour Court, may be examined.

No doubt the charge leveled against the 1st respondent that he absented from duties and that in the year 2001, he had put in only 69 musters as against the required musters of 100, is proved in the

enquiry. In fact the 1st respondent, did not dispute his absence, but it is his case that because of his ill-health, he did not attend to duty, and to support his case of ill-health, he filed exhibits Ex. W4 to W24, namely medical reports etc. The Labour Court upon appreciating the medical evidence placed by the 1st respondent, and having regard to the fact that in his entire 17 years of service, this was the first offence, and considering the fact that the absence of the 1st respondent, was for reasonable cause and not otherwise, felt that punishment of dismissal from service imposed on the

1st respondent was not justified, and accordingly in exercise of the discretion vested in it under Section 11-A of the Industrial Disputes Act, 1947, set aside the order of dismissal from service, and ordered his reinstatement into service without backwages, and I see no reason whatsoever to interfere therewith, more so when the petitioners failed to point out that the award passed by the Labour Court is one without jurisdiction or it has acted in excess of its jurisdiction or in disregard of the rules or violated the principles of natural justice.

The writ petition is devoid of merit, and the same is accordingly dismissed. No costs.

N.V. RAMANA, J.

Dated: 11th October, 2007.
KSR

[1] AIR 2003 SC 3044 =2003 AIR SCW 3872